

HOUSE BILL 2387

By McDonald

AN ACT to amend Chapter 288 of the Acts of 1905; as amended by Chapter 554 of the Private Acts of 1917; Chapter 568 of the Private Acts of 1939; Chapter 223 of the Private Acts of 1970; Chapter 28 of the Private Acts of 1979; Chapter 170 of the Private Acts of 1979; Chapter 107 of the Private Acts of 1981; Chapter 12 of the Private Acts of 1981 and Chapter 31 of the Private Acts of 2003; and any other acts amendatory thereto, relative to the City of Portland.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 288 of the Acts of 1905; as amended by Chapter 554 of the Private Acts of 1917; Chapter 568 of the Private Acts of 1939; Chapter 223 of the Private Acts of 1970; Chapter 107 of the Private Acts of 1981; Chapter 31 of the Private Acts of 2003; and any other acts amendatory thereto, is amended in Article II by deleting Sections 1 and 2 in their entirety and by substituting instead the following:

Section 1. The corporation shall have full power within the corporate limits; and except for those powers specifically listed in Section 2, the City Council may choose to exercise the following powers by resolution or ordinance:

- (1) To make special assessments for municipal improvements;
- (2) To contract and be contracted with, if the amount is sixty thousand dollars (\$60,000) or less;
- (3) To borrow money;
- (4) To appropriate money and provide for the payment of the debts of the City, and to borrow money in accordance with appropriate general law;
- (5) To expend the money of the City for all lawful purposes;
- (6) To acquire, receive, and hold, maintain, improve, sell, lease, or otherwise dispose of property, real or personal, and any estate or interest

therein, within or without the City or State, except such as may hereinafter be prohibited;

(7) To condemn property, real or personal, or *any* easement, interest, estate or use therein, either within or without the City, for present or future public use, such condemnation to be made and effected in accordance with the terms and provisions of Tennessee Code Annotated, Title 29, Chapters 16 and 17, or in such other manner as may be provided by general law;

(8) To take and hold property within or without the City or State upon trust for the public benefit, and for the benefit and improvement of the City Cemetery and/or privilege therein;

(9) To acquire, construct, own, operate, and maintain public utilities or any estate or interest therein, or any other utility of service to the City, the inhabitants, or any part thereof, subject to conditions hereinafter provided;

(10) To grant to any person, firm, association or corporation, franchise for public utilities and public services to be furnished the City and the inhabitants thereof;

(11) To make contracts, subject to conditions hereinafter provided, with any person, firm, association or corporation, for public utilities and public service to be furnished the City and inhabitants thereof;

(12) To establish, open, re-locate, vacate, close or abandon, alter, widen, extend, grade, improve, repair, construct, re-construct, maintain, light, sprinkle and clean, public highways, streets, boulevards, parkways, sidewalks, alleys, parks, public ground and squares, bridges, viaducts, subways, tunnels, sewers, privies, toilets, and drains within or without the corporate limits, and property may be taken and appropriated therefore under provisions of Tennessee Code Annotated, Title 29, Chapters 16 and 17 and Sections 7-31-107 through 7-31-111, or in such other manner as may be provided by law;

(13) To construct, improve, reconstruct and reimprove, by opening, extending, widening, grading, curbing, guttering, paving, graveling,

macademizing, draining or otherwise improving any streets, highways, avenues, alleys, or other public places within the corporate limits and to assess a portion of the cost of such improvements upon the property abutting upon or adjacent to such streets, highways or alleys, under and as provided by Tennessee Code Annotated, Title 7, Chapter 32, Part 1, or as may otherwise be provided by law, and said City may by ordinance or otherwise prohibit anyone from occupying, encroaching or trespassing upon any of the public lands, buildings, parks, streets, roads and alleys, within said corporation, and remove any one from same who may have occupied or encroached on same;

(14) To provide for the construction and repair of sidewalks and curbing, and for the cleaning of same and all gutters and streets, at the expense of the owners of the ground fronting thereto; to provide for the removal of all encroachments into or upon any street, alley or other property of the City, and for the removal of all obstructions from sidewalks including snow, ice and earth, the cutting and removing of obnoxious weeds and rubbish, the cleaning and rendering sanitary, or the removal of closets and privies, pig pens, stables and slaughter houses at the expense of the owners of the property or the owner of the abutting property. The expense of all of the above shall be a debt against the owner or owners, and shall constitute a lien on the lot or lots of said owner or owners for eighteen (18) months from the date of payment by the City and said lien and debt may be enforced and recovered by the City in the Chancery Court of Sumner County, Tennessee, and said Court is hereby given jurisdiction of such liens and debts regardless of the amounts involved; provided, that suits now pending to enforce the collection of such debt may be prosecuted under the provisions of the present charter. Also to regulate and prevent the running at large and tying and fastening of cattle, hogs, horses, mules, stock and other animals of all kinds, and stationing, placing, or leaving of teams, wagons, or other vehicles on the street, or fast riding or driving on the streets;

(15) To acquire, purchase, provide for, construct, regulate and maintain.

and to do all things relating to all market places, public buildings, bridges, market houses, sewers and other structures, works and improvements;

(16) To collect and dispose of drainage, sewage, offal, ashes, garbage, and refuse, and to license and regulate such collection and disposal;

(17) To license and regulate all persons, firms, and corporations, companies, and associations, engaged in any business, occupation, calling or profession or trade not forbidden by law;

(18) To impose a license tax upon any animal, vehicle, thing, business, vocation, pursuit, privilege, or calling not prohibited by law;

(19) To define, prohibit, abate, suppress, prevent and regulate all acts, practices, conduct, business occupations, callings, trades, uses or property, and all other things whatsoever detrimental, or liable to be detrimental, to the health, morals, comfort, safety, convenience, or welfare of the inhabitants of the City and to exercise general police powers, and to make and enforce regulations to secure the general health of the citizens and to remove and prevent nuisances;

(20) To prescribe the limits within which business occupations and practices liable to be nuisances or detrimental to the health, morals, security or general welfare of the people, may lawfully be established, conducted or maintained;

(21) To inspect, test, measure and weigh, any article of consumption or use within the City, and to charge reasonable fees therefor, which fees shall go into the treasury of the City;

(22) To establish, regulate, license and inspect weights and measures, in such manner and way as provided by general law;

(23) To regulate the location, bulk, occupancy, area, lot, height, construction and materials, including plumbing and electrical wiring of all buildings and structures, and to inspect all buildings, lands, and places as to their condition for health, cleanliness and safety, and when necessary, prevent the use thereof and require any alterations or changes necessary to make them

healthful, clean or safe;

(24) To provide, construct, and maintain, or donate to charitable, educational, recreative, curative, corrective, detentive, or penal institutions, departments, functions, facilities, instrumentalities, conveniences, and services. To comply with state department of health rules regarding isolation or quarantine of diseases as required by general law; to create a Board of Health and a Health Department, and to establish, build and regulate hospitals;

(25) To regulate, fine and suppress all disorderly houses, assignation or bawdy houses, and gambling houses; to impose fines, forfeitures, and penalties for the breach of, or to enforce any ordinance, to provide for their recovery and appropriation; to provide for the arrest and confinement until trial of all persons violating any ordinance of the city; to prevent and punish by pecuniary penalties, fines, forfeitures or imprisonment all breaches of the peace, noises, disturbances, disorderly assemblies, or other misdemeanors in the city at any time;

(26) To enforce any ordinance, rule, or regulation by means of fines, forfeitures and penalties, or by action or proceedings in any Court of competent jurisdiction, or by any one or more of such means and to impose costs as a part thereof but no fine, forfeiture or penalty, shall exceed fifty dollars (\$50.00);

(27) To regulate, tax, license, require vaccination or suppress the keeping or running at large of animals within the City; to impound the same, and in default of redemption to sell or kill the same;

(28) To provide the City with water and light by waterworks and light plants within and/or beyond the boundaries of the City;

(29) To erect, established, open, close and remove bridges, sewers, gutters, hydrants and cisterns;

(30) To establish, support, and regulate a police system, and to appoint special police when, in the opinion of the Mayor, it is necessary;

(31) To provide for the enclosing, improving and regulating the public grounds and buildings belonging to the City, within or without the corporate limits;

(32) To provide for the prevention and extinguishment of fires, to establish and equip a fire department, and to restrain or prohibit the erection of wooden or combustible buildings in any part of the City; to regulate and prevent the carrying on of any business dangerous in causing or producing fires; to regulate the storage of all combustible, inflammable or explosive materials, and the use of lights or fire in the City, or the cleansing, burning, and sweeping of chimneys or stove pipes and to regulate or prevent the discharging, firing, shooting, or carrying of guns, pistols and fireworks in the City;

(33) The City Council shall have the power to designate from time to time a depository or depositories in which all of the funds of the City shall be kept, and it shall be cause for removal from office for any City Official, to refuse to deposit the funds in his hands in the depository or depositories so designated;

(34) The City Council shall have full power to purchase fire equipment and to erect or purchase buildings for the housing of same, and to make all appropriations necessary for such purposes;

(35) The City of Portland shall have the right of eminent domain for all municipal purposes named in this charter and to that end shall have the right to condemn property, the proceedings of condemnation to be governed by Tennessee Code Annotated, Title 29, Chapters 16 and 17, or as may otherwise be provided by law;

(36) To have and exercise all powers which now or hereafter may be granted by general law and/or which it would be competent for this charter specifically to enumerate, as fully and completely as though said powers were specifically enumerated herein;

(37) To impose such fees on persons or entities developing land within

the service area of any city-owned utility within and without the corporate limits as the city deems appropriate to pay the cost of capital improvements and other expenses related to such developments including, but not limited to, improvements and expenses for street repair and construction, water and wastewater services and facilities, natural gas services and facilities, electric service and facilities, and other city-owned utility services and facilities, storm sewers and facilities, educational services and facilities, parks and recreational facilities, police protection, fire protection, garbage collection and disposal, and the providing of administrative services. The City may exempt new or old industries from the imposition of fees when needed to enhance growth or for the betterment of the community when such industries will employ regularly at least ten (10) persons;

(38) To impose such fees on persons or entities developing land within the corporate limits as the city deems appropriate to pay the cost of capital improvements and other expenses related to such developments including, but not limited to, improvements and expenses for street repair and construction, water services or facilities, storm sewers or facilities, educational services or facilities, parks and recreational facilities, police protection, fire protection, garbage collection or disposal, and the providing of administrative services. The City may exempt new or old industries from the imposition of fees when needed to enhance growth or for the betterment of the community when such industries will employ regularly at least ten persons; and

(39) To establish, open, relocate, vacate, alter, widen, extend, grade, improve, repair, construct, reconstruct, maintain, light, sprinkle and clean public highways, streets, boulevards, parkways, sidewalks, alleys, parks, public grounds, public facilities, libraries and squares, wharves, bridges, viaducts, subways, tunnels, sewers and drains within or without the corporate limits, regulate their use within corporate limits, and assess fees for the use of or impact upon such property and facilities.

Section 2. The following powers shall be done by ordinance:

(1) To levy, assess, and collect any and all taxes upon all property, and on all developments, and on all subjects or objects of taxation, and privileges, within said limits, taxable by law for municipal purposes;

(2) To contract or to be contracted with; when the amount exceeds sixty thousand dollars (\$60,000);

(3) To acquire, sell, give, or receive any real estate property or interest therein; whether it be through condemnation, payment, eminent domain or other;

(4) To acquire, construct, own, operate, and maintain public utilities or any estate or interest therein, or any other utility of service to the City, the inhabitants, or any part thereof, subject to conditions hereinafter provided;

(5) To grant or make contracts, to any person, firm, association or corporation, franchise for public utilities and public services to be furnished the City and the inhabitants thereof;

(6) To establish schools, determine the necessary boards, officers and teachers required therefore and fix their compensation, to purchase or otherwise acquire land for school houses, play grounds and other purposes connected with the schools; to purchase or erect all necessary buildings and to do all other acts necessary to establish, maintain and operate a complete educational system within the City. To establish and support a system of free schools and regulate same so as to secure the most efficient management and to prevent sectarian or denominational influence, and for that purpose may levy and collect a tax not exceeding thirty cents (30¢) on the one hundred dollars (\$100) of property, in addition to the ordinary revenue, to be collected as other revenue and appropriated in aid of the common schools of the City, or to such schools as the City Council may establish, and to be paid to the order of the City Board of Education by the treasurer of said corporation;

(7) For the purpose of promoting health, safety, morals or the general



welfare the City Council may regulate and redistrict, within the corporate limits, the height, number of stores, and size of buildings and other structures, the percentage of lot that may be occupied, and size of yards, courts and other open space, the density of population, and the location and use of buildings, structures and land for trade, industry residence and other purposes. For any and all of said purposes the City Council may divide the municipality into districts or zones, of such number, shape and area as may be deemed best suited to carry out the purposes of this act, and within such districts it may regulate and redistrict the erection, construction, reconstruction, alteration repairs, or use of buildings, structures or land. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations of one district may differ from those in other districts. Such regulations shall be made in accordance with a comprehensive plan and design to lessen congestion in the streets and to insure safety from fire, panic, and other dangers to promote health and the general welfare, to provide adequate light and air to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements, such regulations shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserve the value of buildings and encouraging the most appropriate use of land throughout such municipality, and shall provide a penalty for violations thereof;

(8) To construct or repair any facility where the cost exceeds twenty-five thousand dollars (\$25,000);

(9) To approve the City's yearly operating budget; and

(10) To set the salary of the Mayor and Alderman.

Section 3. The enumeration of particular powers in this charter is not exclusive of others, nor restrictive of general words or phrases granting powers, nor shall a grant or failure to grant powers in this charter, and whether powers, objects, or purposes are

expressed conjunctively or disjunctively, they shall be construed as to permit the City to exercise freely any one or more of such powers as to any one or more of such objects for any one or more of such purposes.

SECTION 2. Chapter 288 of the Acts of 1905; as amended by Chapter 554 of the Private Acts of 1917; Chapter 568 of the Private Acts of 1939; Chapter 170 of the Private Acts of 1979; Chapter 107 of the Private Acts of 1981; Chapter 12 of the Private Acts of 1981; and any other acts amendatory thereto, is amended in Article III, Section 1 by deleting the language "two (2) years" and by substituting instead the language "one (1) year".

SECTION 3. Chapter 288 of the Acts of 1905; as amended by Chapter 554 of the Private Acts of 1917; Chapter 568 of the Private Acts of 1939; Chapter 28 of the Private Acts of 1979; and any other acts amendatory thereto, is amended in Article III, Section 3 by deleting the language "in any election under this Charter all voters who are and have been for six (6) months next preceding the election bona fide residents of the City and all voters who have owned a taxable freehold in such City for a period of six (6) months previous to the day of the election and who, if liable therefore, have paid their city pole tax, and who shall be qualified to vote for members of the general assembly of the State of Tennessee, shall be entitled to vote;" and by substituting instead the language "In any election under this charter all voters who are residents of the City and are qualified under State Law may vote in the City election. Additionally any voter who does not reside in the City but owns a taxable freehold in such city for a period of six (6) months previous to the day of the election shall be entitled to vote;".

SECTION 4. Chapter 288 of the Acts of 1905; as amended by Chapter 554 of the Private Acts of 1917; Chapter 568 of the Private Acts of 1939; Chapter 107 of the Private Acts of 1981; and any other acts amendatory thereto, is amended in Article III, Section 6 by deleting the language "by ordinance" in the first line of the second paragraph.

SECTION 5. Chapter 288 of the Acts of 1905; as amended by Chapter 554 of the Private Acts of 1917; Chapter 568 of the Private Acts of 1939; and any other acts amendatory thereto, is amended in Article V, Section 4 by adding the language "Saturday and" before the language "Sundays" in the first sentence.

AND FURTHER AMEND by deleting the language "by a two-thirds majority vote" and

by substituting instead the language "by an affirmative vote of five (5)".

SECTION 6. Chapter 288 of the Acts of 1905; as amended by Chapter 554 of the Private Acts of 1917; Chapter 568 of the Private Acts of 1939; and any other acts amendatory thereto, is amended in Article V by adding the following new section thereto, as follows:

Section 6. Be it further enacted, That the Mayor shall have the right and authority to hire temporary employees as needed by each department, without council's approval. The Mayor is to inform the council of his decisions and to provide the council with any necessary additional information as requested."

SECTION 7. Chapter 288 of the Acts of 1905; as amended by Chapter 554 of the Private Acts of 1917; Chapter 568 of the Private Acts of 1939; Chapter 223 of the Private Acts of 1970; Chapter 107 of the Private Acts of 1981; and any other acts amendatory thereto, is amended in Article VI, Section 1 by deleting the language "but not to exceed the limits fixed in this act," in the first paragraph.

SECTION 8. Chapter 288 of the Acts of 1905; as amended by Chapter 554 of the Private Acts of 1917; Chapter 568 of the Private Acts of 1939; Chapter 223 of the Private Acts of 1970; Chapter 107 of the Private Acts of 1981; Chapter 12 of the Private Acts of 1981; and any other acts amendatory thereto, is amended in Article X, Section 1 by deleting the language "In the absence or disability of the City Judge the Mayor may designate a qualified person to serve as City Judge during such absence or disability." and by substituting instead the language "The Mayor may designate a qualified person to serve as interim city judge during the absence or disability of the city judge. The interim city judge may begin serving immediately upon appointment but the appointment must be placed on the agenda for the next meeting of the City Council to consider approval of the appointment."

SECTION 9. Chapter 288 of the Acts of 1905; as amended by Chapter 554 of the Private Acts of 1917; Chapter 568 of the Private Acts of 1939; Chapter 223 of the Private Acts of 1970; Chapter 107 of the Private Acts of 1981; Chapter 12 of the Private Acts of 1981; and any other acts amendatory thereto, is further amended in Article X, Section 1 by replacing the present paragraph 2 with the language contained in paragraph 1, and by replacing the present paragraph 1 with the language contained in paragraph 2.

SECTION 10. Chapter 288 of the Acts of 1905; as amended by Chapter 554 of the Private Acts of 1917; Chapter 568 of the Private Acts of 1939; Chapter 107 of the Private Acts of 1981; and any other acts amendatory thereto, is amended in Article XI, Section 1 by adding the language "impact fees, adequate facilities taxes, development taxes" before the language "and special assessments."

AND FURTHER AMEND by deleting the word "privilege" and by substituting instead the language "any taxes or fees".

SECTION 11. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the City of Portland within thirty (30) days of its signing by the Governor of this state. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body of the City of Portland and certified to the secretary of state.

SECTION 12. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 11.